

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 56 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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DISTRICT PANCHAYAT

Versus

PRAFULCHANDRA CHHOTALAL MEHTA

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Appearance:

MR PV HATHI for Petitioner

MR BP MUNSHI for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/02/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The order of the court below impugned in this  
C.R.A. is totally a perverse order. It is really  
shocking that the court below has gone to the extent to  
say that the court has to protect the interest of the

appellant. The order passed by the court below on 27th September, 1993 is only an ex-parte interim relief granted in favour of the respondent. It is not in dispute that this order has been passed without notice to the petitioner. It was an ex-parte interim injunction. It is the right of the petitioner to apply for its modification or vacation. It continues to be an ex-parte so long as it is not confirmed after hearing the learned counsel for the petitioner. It is true that for a long period, the petitioner has not taken any steps for vacation or modification but when an application has been filed for vacation or modification thereof, that should not have been rejected in the way in which it has been done by the court below. This order was an ex-parte order and it is the duty of the court to hear the other side and then pass appropriate order of its confirmation or modification or vacation. But that application could not have been rejected only on the ground that after considerable delay, same has been made or that the court has passed earlier order after perusing the whole proceedings. This order being an ex-parte order is always subject to vacation or modification or cancellation. In case the order of the court below is allowed to stand it will certainly occasion failure of justice to the petitioner.

3. As a result of the aforesaid discussion, this revision application succeeds and the same is allowed and the order dated 30th November, 1999 of the court below is quashed and set aside and the learned court below is directed to decide the application filed by the respondent for interim relief within a period of 15 days from the date of receipt of writ of this order. The court below is further directed to decide the appeal within a period of six months from the date of receipt of writ of this order. The respondents are directed to pay Rs.1000/= as costs of this revision application to the petitioner. Rule is made absolute accordingly.

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